

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
OXFORD HEALTH INSURANCE, INC., et al.,

Plaintiffs,

-against-

DANIEL HAMNER, M.D., et al.,

Defendants.
----- x

ORDER DENYING
DEFENDANTS' MOTIONS TO
DISMISS THE AMENDED
COMPLAINT

13 Civ. 375 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendants have filed motions to dismiss the Amended Complaint, pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a cause of action. The motion filed by Defendant Allan Christopher as executor for the Estate of Anne M. Christopher (the "Christopher Estate") additionally seeks dismissal, pursuant to Fed. R. Civ. P. 12(b)(5), for insufficient service of process. The motions are denied.

Plaintiffs have sufficiently alleged each of the Defendants' knowledge and participation in the RICO enterprise and conspiracy and that each of the Defendants played "some part in directing the enterprise's affairs." First Capital Asset Management, Inc. v. Satinwood, Inc., 385 F.3d 159, 176 (2d Cir. 2004) (quotations and alterations omitted; emphasis in original). Plaintiffs have also sufficiently alleged that the enrollment forms Anne Christopher signed were false, that she knew they were false, and that her conduct was the proximate cause of Plaintiffs' losses.

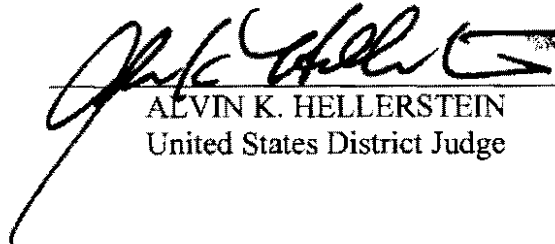
The Christopher Estate's motion to dismiss for insufficient service of process is denied. As I previously held, service upon the probate court in Connecticut satisfied Fed. R. Civ.

P. 4 in this case. See Transcript of Oral Argument at 10:8-12, Oxford Health Insurance, Inc. v. Hamner, 13-cv-375-AKH (S.D.N.Y. July 30, 2013).

The Clerk shall mark the motions (Doc. Nos. 40 and 43) terminated.

SO ORDERED.

Dated: New York, New York
October 8, 2013



ALVIN K. HELLERSTEIN
United States District Judge